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Examination of the Implementations and Challenges of International Extradition Laws in the Post-Cold War Era: The African Perspective

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ABSTRACT

This study examined the implementations and challenges of international extradition law in the post-Cold War Era (p-CWE) with Africa as a focus. To achieve its specific objectives, historical research design was adopted and four research questions were raised to interrogate the qualitative data obtained in form of supportive literature, gleaned secondary sources such as textbooks, journal articles, newspaper articles, periodicals, internet materials, among others. The analysis of literature is focused on the extent to which the p-CWE enhanced increase in extradition agreements in Africa, the role of the p-CWE in enhancing the achievement or execution of international extradition laws in Africa, the challenges of implementation of extradition processes in Africa in the p-CWE, and suggests ways these challenges confronting extradition processes in Africa in the p-CWE could be resolved. Double Criminality theory was adopted as its theoretical framework. Study finds out among others that in spite of the role of p-CWE in enhancing extradition processes in Africa, extradition processes is bedevilled by certain problems such as needless and unnecessary granting of asylum to reckless leaders; granting of needless and unwarranted presidential pardons to family members and political associates; and needless and unnecessary delays of extraditing individuals under the request of the requesting states occasioned by bureaucracy and differences in values and judicial systems. The study therefore recommends among others: the need for African states to continue to have extradition agreements in order to check all forms of violations of the international humanitarian laws in Africa. There is also the need for African countries to continue to cooperate with international agencies and institutions such as the UN Security Council (UNSC) and the International Criminal Court (ICC) and among themselves in order to dispense speedy justice on cases involving individuals, and regimes officials and leaders who have breached the provisions of the international humanitarian laws.

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I. INTRODUCTION:

The end of the Cold War which its protagonists was the United States of America (USA) and the former Union of Soviet Socialist Republic (USSR), as well as the disintegration of the latter made a compelling case for re-orientation in a new international political order now commonly known as the "post-Cold War Era (p-CWE) or post-Cold War Period (p-CWP)". The p-CWE now characterised by limited forms of the antagonisms that were associated with the Cold War Era (CWE) or Cold War Period (CWP) is also witnessing laudable reduction in unacceptable behaviours of some states, individuals and political leaders, particularly in Africa in contrast to the Cold War era phenomena. The CWE witnessed increase in what could have been called a crime, especially during the period of the Second World War (WWII) in which certain offences were legally accepted. This was made possible because of the ambience of the

United States which asserted its hegemonic influence on the greater part of the international system resulting in the struggle for relevance and influence by the two power blocs of the Capitalist West led by the United State of America (USA) and Socialist East led by the defunct Soviet Union (Carla, 2010).

In spite of the stiff face up between the defunct Soviet Union and USA, the latter sustained its preponderant influence on the entire world system during the period. It was the bid to rival the domineering power and influence of the latter by the former, particularly after the detonation of the atomic bombs in Hiroshima and Nagasaki, Japan on August 6 and 8, 1945 that resulted to the propaganda rooted in containment of Soviet expansionism, and subsequently, the Cold War realpolitik (Ikenberry, 2005; Scott-Smith, 2009; Advanced Placement (AP) Central College Board, 2022). Currently, the world has transited from the short-lived unipolarity to an increasingly multi-polar order following the emergence of multiple power blocs such as the resurgence of Russia and stronger Europe, and the rise of the BRICS nations of Brazil, Russia, India, China and South Africa. This fledgling transition to multi-polarity which coincided with the acceleration of globalisation in which domestic issues of states are to a large extent shape by external factors, is one of the leading factors that influenced the change of perception of what constitutes a crime and what is not in the global system, and the need for collective effort to extradite individuals who have committed offences against humanity (Ball, 2019).

In Africa, crimes committed against the provisions of the international humanitarian laws during the CWE by some ignorable individuals, tyrants and dictators, and initially conceived as local in character, are now conceived differently under the present international political system (p-CWE or p-CWP). Because Africa seems to entertain more of these forms of atrocities against humanity, several indictments and requests to extradite individuals, government officials and leaders were made by the International Criminal Court (ICC), such as the cases involving Omar Hassan Ahmad al-Bashir of Sudan; the Africa Pinochet, the Chadian former President Hissein Habre; former President Charles Taylor of Liberia; Jean-Pierre Bemba of the Central Africa Republic; Laurent Gbagbo of Cote d'Ivoire and despotic others. It was not until the civil wars in the former Yugoslavia, Sierra Leone and Liberia, and the genocide war in Rwanda that the United Nations Security Council (UNSC) and the ICC moved to end all forms of atrocities in the international system by encouraging increase in extradition agreements in connection with international extradition laws, and indictments of those who have committed crimes against humanity (Ezeibe, 2011; Oluka, Ativie & Okuguni, 2019).

As such the International Criminal Tribunals (ICTs) such as the International Criminal Tribunal for Yugoslavia (ICTY) created in 1993; and in Africa, the International Criminal Tribunal for Rwanda (ICTR) established in 1994 were created. Also established was the Special Court for Sierra Leone (SCSL) in 2002 under the supervision of the ICC in The Hague, established under the Statute of Rome of 1998 with the mandate to try tyrants, dictators, government officials, leaders and individuals who have committed or alleged to have committed crimes or offences against the provisions of the international humanitarian laws (Ezeibe, 2011). The unification of the global system in the p-CWE is the reason for the increase in extradition agreements and requests made in recent times for the return of individuals and regime leaders and officials who have or alleged to have committed offences against humanity. Extradition, therefore, is no longer a local or domestic legal practice but it is now the collective obligation of national governments to exercise on request.

1. Nature of the Problem

The p-CWE which is characterised by unaccepted violations of the provisions of the international humanitarian laws, and which emphasizes respect for individuals' rights following the change of perception of what constitutes a crime or otherwise against humanity has its peculiar challenges which includes interference in states' sovereignties, abuses of extradition processes, resistance by national governments to extradite on requests those who have contravened the provisions of international humanitarian laws, especially in Africa (Oluwadare, 2014; Omotuyi, 2019). There are also the manifestations of challenges such as needless and unnecessary granting of asylum to reckless leaders, granting of needless presidential pardon to family members and political associates, and unnecessary delay of extraditing individuals under the request of the requesting states occasioned by bureaucracy and differences in values and judicial systems that have negatively affected functional implementation of international extradition laws, particularly in Africa.

The delocalisation of crimes and the concept of sovereignty of states have also been limited and subject to interference by the provisions of the ICC as in the case concerning Libya. Although, Libya is not a state party to the Rome Statute but on 26 February 2011, the UN Security Council unanimously through her Resolution 1970 (2011) referred the situation in Libya to the ICC to exercise jurisdiction over the crimes listed in the Rome Statute committed in the

territory of Libya by any of its nationals from 15 February 2011 onward. This is a true reflection of delocalisation of crime, and the now near-universal consensus that fugitive offenders or criminals who have contravened or alleged to have contravened the provisions of international humanitarian laws should be extradited from the requested (or asylum) state to the requesting state for trial on request (Omotuyi, 2019; International Court of Justice, ICC Timeline, 2020). Apart from weakening the UNSC and creating porous global community, the rise of arms production and proliferation dynamics which have direct connection with the events that evolved during the period in Africa, the Cold War repercussions and experiences are numerous to mention. As Clark (2007) rightly stated:

> Africa like any other part of the world system had its bitter share of the experience regarding how the rivalries of the balance of power were played out by the belligerents, with grave consequences for the people of Africa (Clark, 2007:ix).

The United Nations Disarmament Commission (UNDC) Report (1995) as cited in Alimba (2017:40) argued "that of all the factors that were associated with the Cold War antagonisms, in Africa the most serious challenge is the easy availability, circulation and accumulation of small arms and light weapons (SALW) resulting in several conflict areas in the continent". The above is indeed a problem which was complicated by the easy supplies of weapons by the Cold War protagonists, and used to prosecute conflicts and suppression of oppositions by dictators and tyrants, especially in Africa during the period of the Cold War, and by extension, in the early period of the present international political system, i.e., the p-CWP. The definition and harmonisation of political offences in international extradition jurisprudence also impedes functional execution or discharge of extradition laws in the continent. One would have hope that the ICC intervention in the indictments and domestic trials of former regime officials, important personalities and individuals in Africa would have impact positively in the respect for individuals' rights and dignities as human beings, and much more to Africans than the global community, unfortunately, this is hallucination because African leaders saw the involvement of the ICC in Africa as a deliberate attempt to disparage African leaders and individuals.

As a consequence, and to a greater extent, this development sabotaged a number of extradition requests made against regimes' leaders and officials in the continent alleged to have, or have violated the provisions of international humanitarian laws as evident in the case of Omar al-Bashir of Sudan, among others. The Hague is now seen by some political leaders in Africa as neo-colonial justice system, perhaps, the limited cooperation from some of these leaders in compliance with the requests made by the ICC against Omar Ahmed Al-Bashir of Sudan and other powerful individuals in the continent is a problem (Bartlet, 2008:40). Most disturbing is the occasional involvement of state-actors in the disregard and abuse of bilateral as well as multilateral treaties, especially those relating to extradition reached in the past.

The June 2014 Malabo Conventions held in Equatorial Guinea to amend the Protocol of the Statute of African Court of Justice and Human Rights (ACJHR) by the State parties of the A.U [hereafter: the Malabo Protocol, 2014] and which called on all A.U State parties to sign and ratify same is conceived to have undermined the universality of the Protocol of the ICC (Malabo Protocol on ACJHR, 2014). Similarly the granting of ACJHR coordinate jurisdiction with the ICC over offences such as crimes against humanity, war crimes, crime of aggression, unconstitutional change of government, genocide, piracy, terrorism, mercenaries, corruption, money laundering, trafficking in persons, trafficking in hazardous wastes and illicit exploitation of natural resources, amongst others is indeed a problem. In the view of some analysts and scholars, this development will impact negatively on the mandate granted the ICC to indict, issue warrant of arrest and prosecute those who have committed offences against humanity in Africa. It is on these bases that this study examined the role of the p-CWE in enhancing functional implementation of international extradition laws in Africa, and the challenges of discharging total implementation of international extradition processes in Africa in the p-CWE.

2. Objectives of the Study

The general objective of this study is to examine the implementation of international extradition laws in the post-Cold War Era (p-CWP) with Africa as a focus. While the specific objectives are to examine:

A. The role of the p-CWE in enhancing the implementation of international extradition laws in Africa,

B. The challenges associated with the implementation of international extradition laws in Africa in the p-CWE, and

C. Solutions to the challenges of the implementation of international extradition laws in Africa in the p-CWE.

3. Research Questions

This following research questions are raised to provide direction to this study:

A. In what ways has the p-CWE enhanced implementation of international extradition laws in Africa?

B. What are the challenges associated with implementation of international extradition laws in Africa in the p-CWE?

C. What are the solutions to the problems associated with implementation of international extradition laws in Africa in the p-CWE?

4. Method of the Study

This study adopted historical research design because of its unity and consistency. Historical or analytical research can accommodate comprehensive understanding of current events. Secondary sources of data in form of supportive literature, gleaned textbooks, journal articles, newspaper articles, periodicals, internet materials, among others were extensively deployed to gather materials for this study.

II. Review of Related Literature

The Post-Cold War Era (p-CWE): Conceptual Explanation:

The term "post-Cold War Era or Period" (p-CWE or p-CWP) has been used interchangeably with the term, "post-Cold War Political Order (p-CWPO) or simply, the New World Order (NWO)", which has been used to refer to any new event in the history of the world that reflects a dramatic change or changes in world politics. The p-CWE attempted to balance the powers of states in the global system in recent times (Martins, 2003). The phrase new world order (NWO) has also been used to describe diverse contemporary issues such as the post-Cold War (p-CW) balance of power, economic interdependence, fragmentation and the rise of nationalism, and technological advancement, and basically on any issue that appears new and distinct. As diverse as its interpretations may be, the phrase is primarily associated with the ideological notion of global governance, and collective efforts to identify, understand, and to address worldwide problems that are beyond the capacity of individual nation-states to resolve (Bart, 1997:1).

The term "New World Order" is said to have been popularised in its Western usage in Woodrow Wilson of the United States fourteen points speech before a joint meeting of the Congress of the League of Nations (LNs) held on January 8, 1918, during which he outlined his vision for a stable and long-lasting peace in Europe, America and the rest of the world. The term p-CWE is associated with the end of the antagonisms of the Cold War era (CWE). It has severally been used to denote the changes that occurred following the end of the Cold War in the early 1991 onward. President Mikhail Gorbachev of the defunct Soviet Union and George W. H. Bush of United States of America (USA), respectively used the phrase "New World Order", that is what is now generally refers to as the "p-CWE" to define the nature of the world system after the CWE, and the spirit of power operation envisaged for the global system (Gorbachev, 1988; Gorbachev, 1990; Bush, 1990).

The English Oxford living Dictionaries (2018) defined the term as "a new or alternative model of social organisation, interaction, or control; a new balance of power among nations, and it is also sometime refers to as a situation that manifested to preserve political stability, global politics and global economy following the end of the CWE". Gaddis (1991), a Cold War historian defined the NWO or p-CWP as, "a period characterised by unchallenged American primacy, increasing integration, resurgent nationalism and religiosity, a diffusion of security threats and collective security". It also involves changes in communications, the international economic system, the nature of security threats, and the rapid spread of new ideas that would prevent international isolationism" (Gaddis, 1991). It is also a period in contemporary history that permits cooperation in the management and control of crime through implementation of international extradition laws. It is also a period that has liberalised the international system for better (Ezeibe, 2011). For the purpose of this study the term "p-CWE or p-CWP" defines a new world political system which has limited levels of the atrocities associated with the CWE, and which is free from the ideological antagonism that characterised the CWE.

It defines a new era of global perception of what constitutes a crime and what is not, and management of all kinds of crimes. It is a period that defines global reciprocity in socio-political and economic front, and in crimes control and global collective security through the agencies of the United Nations, and the ICC located in The Hague. The term also defines the era of global cooperation in economic, social, cultural and political fronts. It is defines the era of collective responsible of national governments in crime management and control, and in combating terrorism and other forms of threats such as climate or environmental threats, financial crimes, among others. It is an era that is free from the ideological antagonism associated with the politics of the CWE dominated by a bipolar global structure with the

United States on one end, and the defunct USSR on the other end.

The Concept of Extradition and Extradition Laws:

Extradition is one of the earliest forms of interstate relations in which reciprocity was accorded greater recognition. Its origin is traced to ancient civilisations, notably the Egyptian, Chinese, Chaldean and the Assyro-Babylonian civilisations. The earliest political document, "the peace treaty between Ramses II, Pharaoh of Egypt and the Hittite King, Hattulisis III in 1280 B.C contained extradition provision. This is an indication that extradition is an ancient activity in which the surrender of a fugitive was seen as an unusual remedy. Most people sees it as 'extra-tradition' while other believed it is derived from a Latin world 'Extradere' which means forceful return of an individual from a state of asylum to his sovereign state for trial for offence or crime committed against the individual state or the individuals" (Bassiouni, 2001:31). William (2012) sees extradition "as one of tools used in pursuing the interest of state which is prosecuting a fugitive offender or a criminal who have committed a crime or suspected to have committed a crime in either the requesting or requested states". Under such condition, states conclude extradition treaties in order to promote corporation in penal matters and to ensure the enforcement of domestic criminal law (William, 2012:843). It means that states under such arrangement comply with their extradition arrangements or obligations out of respect for the comity and equality of states.

The United States (U.S) Statute defines international extradition, "as the surrender of one state to another of an individual accused or already convicted of an offense outside of its own territory, and within the territorial jurisdiction of the other that is competent to try and punish the offender and demands his surrender (U.S.C 18 3181).Thatcher (1998) defines it as "the relationship between surrendering country and the requesting country, while the surrendering country has jurisdiction over the accused, the requesting country is the state in which the alleged criminal or criminal committed the offence". Thatcher's definition emphasized the action of the requesting country over an accused offender in regards to the provision of international extradition laws. Other extant extradition literature at least observed minimal consensus in line with the U.S Statutory definition of extradition (McHam, 1998). Bassiouni (1971), a well-defines extradition as "the delivery of an individual, usually a fugitive offender or alleged criminal or a criminal, for justice by one state usually known as the requested or the asylum state to another usually known as the requesting state". Similarly, Bassiouni (1996) defines extradition treaties as "that which is conceived to resolve crimes committed by an individual or group of individuals in one of the countries and have taken refuge in another". In other words, international law requires an offense to be extraditable if and only when the crime committed or alleged to be committed is regarded as crime under the national laws of the contracting countries- the requested countries.

There are two forms of extradition treaties, *bilateral treaty* which involve two parties only, and *multilateral extradition treaty* which involve multiple parties. There are also two features that distinguished modern forms of extradition treaties from the ancient forms. These include: the *Conscious Purpose* which openly and regularly restores an offender to an authority competent to exercise jurisdiction over him or her; and the *Observance of a body of Rules* imposed by international and domestic laws governing the requisite for, and the consequences of extradition. Extradition treaty is also classified as having *Enumerative and Eliminative or No List* methods. While the enumerative method list and define the crime for which extradition will be granted, the eliminative method defines extradition offences in terms of their punish ability according to the laws of the contracting State parties, and with a minimum standard of severity. The eliminative method appears to be more popular of the two methods in recent times. Though, both methods observe the rule of 'Double Criminality' that requires an act not extraditable unless it constitutes a crime according to the national laws of both the requesting and the requested states (Shearer, 1971:311).

As cited Robert (2009), Shearer (1971) defines extradition as the formal surrender, based upon reciprocating arrangements by one nation-state to another of an individual accused or convicted of an offence outside its own territory and within the jurisdiction of the other which is competent to try and punish, and demands the surrender of the accused or convicted individual. The general accepted principle thus established that without formal authority either by treaty or statute, an offender or criminal would not be extradited or his surrender requested by the requesting or extradition seeking state. But in the absence of treaty of extradition, the *principle of reciprocity* becomes the alternative means to extradite an offender or criminal (Ezeibe, 2011). The Extradition Act (2003) provides for domestic legal basis for extradition to and from the member states of the European Union (EU) including the state of Gibraltar. Under the European Arrest Warrant (EAW)

and Norway/Iceland Surrender Agreement (SAW) extradition to and from Norway and Iceland is defined. There is also the provision for domestic legal basis for all extradition requests received by the United Kingdom (UK) from other countries including non-European countries (Crown Prosecution Service, CPS, 2020).

Sunnil (2000) defines extradition "as the formal process by which an individual known as the "extraditee" is surrendered from the state of asylum (i.e. requested state) where he is located to the requesting (i.e. claimant state) in order to face prosecution, or if already convicted to serve a sentence". Ladapo and Okebukola (2016:3) interrogating the nitty-gritty of the concept defined it as "an alternative process by which a person accused or convicted of a crime is officially (or legally) transferred to a state where he/she is either wanted for trial or to serve a sentence after being duly convicted by a court of law". It means that the returning of someone to face charges or trial for an offence alleged to have been committed or committed by a different jurisdiction can only be done by request. According to Ayodele (2021:2) extradition has in several instances regarded as the only legal means to resolve cases involving wanted individuals and criminals who have contravened the laws of another country and flew to another to avoid trial.

Jonathan (2020) describes extradition as "a treaty arrangement which helps national governments to bring criminals who have fled their countries to justice". In a more elaborate manner, he defined extradition as "the formal or legal process one state surrenders a person to another for prosecution or punishment for a crime committed in the requesting state's jurisdiction". It implies that extradition treaty is the only legal instrument in which extradition can be demanded (Jonathan, 2020:2). Sadoff (2016) defines extradition as "the act by one jurisdiction of delivering a person who has been accused of committing a crime in another jurisdiction or has been convicted of a crime in the other jurisdiction into the custody of a law enforcement agency of that other jurisdiction". Furthermore, he defines extradition as, "a cooperative law enforcement process between the two extraditing parties or jurisdictions, and that which depends on the agreements reached by the two parties". He concluded that, besides the legal aspects of the process, extradition also involves the physical transfer of custody of the person being extradited by the asylum state to the legal authority of the requesting state (Sadoff, 2016:12 -24). When there is no applicable extradition agreement in place, a sovereign may still request for expulsion or lawful return of the accused pursuant to the requested states domestic law and can be accomplish through the immigration laws of the requested state or other facets of the asylum state's domestic law, since the penal codes of any of the states in the international system contains provisions that allows extradition to take place in the absence of any extradition treaty (Stigall, 2013:50).

For the purpose of this study extradition is defined as the mechanism in which national governments adopt in the request for the return of an individual alleged to have or who have committed a crime from one state (usually the asylum or requested state) to another (usually the claimant or requesting state) to face trial or if already convicted to serve the sentence for the offence committed. It is also the request for the surrender and delivery by one state (the extraditing state) to another (requesting state), of an individual, either accused or already convicted of a crime in the requested state's jurisdiction for the purpose of allowing the accused person to stand for trial or serve his or her sentence. It is also a legal process by which an individual suspected or already convicted of a crime is transferred from one country (the requested or asylum country) to another (the requesting or claimant country) for the purpose of prosecution, or to serve a sentence already imposed on him or her.

III. Theoretical Framework

The theory chosen for this study is Double/Dual Criminality theory which its relevance is in its effort to establish the condition for extradition of individuals, leaders and government officials who have committed offences against humanity in one jurisdiction but seek asylum in another and wanted by the state in which the offence was committed for trial. The theory states that unless the offence alleged to have been committed or committed constitutes an offence in both the extradition seeking state and the asylum state, the alleged offender or convict should not be extradited (Abegunde, 2014:114). The Double Criminality theory is said to be popularised by Jonathan in 1992. In his opinion, double criminality is traditionally bound with institutions of international laws of extradition. For extradition to be demanded there must be a range of double conditions. It means that extradition would not be granted to the seeking state unless the offence committed by the offender is contained in the municipal laws of both the extradition seeking state and the asylum state. The standardisation of the theory began with the British Statute but today, it is a requirement in the extradition law of several countries in the international system (Jonathan, 1992).

The United States jurisprudence 1997-2016 requires a suspect to be extradited from one country to stand trial for breaking a second country's law only when a similar law exist in the extraditing country. For instance, if country "X" has no law against blasphemy and country "Y" has, double criminality could prevent a suspect being extradited from country "X" to country "Y" (U.S Legal Definition Copyright, 1997-2016). The rule of double criminality is one of the most significant ingredients in the proceedings for extradition of offenders who have taken refuge in the territory of the requested state and apprehended therein. It is the most essential principle of extradition which concerns itself with the conditions for extradition of offenders (Shaw, 1997:60). In the absence of extradition treaty between the two parties involved in extradition case, the "Principle of Specialty or Reciprocity" is required. It means that in the absence of extradition treaty the only medium in which extradition is considered is through mere courtesy (Shaw, 1997; Abegunde, 2014).

Muther (1995:5) and Muther (2020:223) stated that in the last decade of the 21st century the legal framework defining extradition became more of a burden, leaving individual countries with the task of finding ways around the treaties that were once so important to resolve issues relating to extradition of fugitive offenders. This form of practice has been in tremendous increase in the p-CWE which presented the preservation for human rights and guided by bilateral agreements or treaty laws. As Gerhard Von Glahn puts it: "a request for the surrender of an accused person must be presented to the foreign country through the diplomatic agent of the extradition seeking country, and when such request is received, the foreign government may or must constitute through its judicial body an investigation to determine whether there is sufficient evidence, in accordance with the municipal or national law, to permit an arrest of the alleged offender or not" (Glahn, 1970:252).

The double criminality theory therefore states that extradition shall not be granted if in the view of the competent authority of the country adopting the law, there are substantial grounds to believe that the request for extradition has been made for the purpose of prosecuting or punishing the person sought on account of his race, colour, religion, nationality, ethnic origin, political opinion, sex or status, or if his position may be prejudiced for any of these reasons". Section 6 of UN Model on Extradition (2004) specifically states that, "extradition shall not be granted if the view of the competent authority of state adopting the law, the person sought has been or would be subjected to torture or cruel, inhuman or degrading treatment or punishment in the requesting country. This theory is adopted as the most appropriate theory because of its effort in explaining the condition on upon which extradition could be made.

IV. Presentation and Analysis of Data

1. Implementation of International Extradition Laws in the Post-Cold War Period

The end of the CWE in 1991, inarguably, ushered in tremendous changes in the present world system which came particularly with a new form of international political system now commonly refers to as the post-Cold War Era or period (p-CPE/p-CWP). While the old order or system was characterised by intra-state identity based conflicts in which ethnic cleansing and genocides were committed within the state and perpetrated predominantly by state and non-state actors in Africa, the p-CWE is characterised by limited forms of these conflicts. The p-CWE also changed the perception of what constitutes an international crime, particularly in Africa in which these forms of atrocities were conspicuous. It also encouraged the United Nations Security Council (UNSC) that is no longer paralysed by the activities of the Cold War protagonist (USA and USSR) to establish the ICC which has the mandate of investigate and prosecute individual who have contravened the provisions of international humanitarian laws. Offences or crimes such murder, attempted murder, conspiracy to murder, manslaughter, rape, sexual slavery and sexual violence, the use of infant soldiers for war, genocide, amongst others are now treated more seriously as crimes against humanity with the establishment of the ICC.

As Anno (2014) rightly stated "the decades before the end of the Cold War, Africa welcomed egregious violations of human rights committed by despotic regimes leaders and officials across the continent such as Idi Amin Dada of Uganda, and Jean-Bedel Bokassa of Central African Republic, a self-styled emperor, etc. Notably, the increasing and promising extradition arrangements in Africa in the p-CWE resulted in the indictments and requests for the extradition of some individuals, including regime leaders and officials who have contravened the provisions of international humanitarian laws exemplified by the war crime charge and issuance of warrant of arrest against Hassan Ahmad al-Bashir of Sudan and his National Congress Party (NCP) associates, Ahmad and Hussein. There was also the disappointing cases involving Jean-Pierre Bemba of the Central African Republic (CAR) and Laurent

Gbagbo of Cote d'Ivoire, both of which are regarded as the two profile trials in Africa in recent time. Although, both cases ended disappointing for thousands of their victims but their indictment by the prosecutors of the ICC shows that no individual, irrespective of his international status is free from the arms of the international criminal justice system (Patryk, 2019).

Essentially also, the new environment created by the p-CWE also made it possible for important personalities, including Abdullah al-Senussi, Saif Al-Islam Gaddafi and Muammar Mohammed Abuminyar Gaddafi, former President Charles Taylor of Liberia, President Uhuru Kenyatta and his Deputy, William Ruto of Kenya; Muammar Gaddafi of Libya; and Yorodia Ndombasi of Democratic Republic of Congo (DRC) to be indicted for various crimes against humanity (Prevent Genocide, 2001; Onyekpe, 2002; Ezeibe, 2011; Roth, 2014; Motsok, 2015; International Court of Justice, ICC Timeline, 2020). These indictments and extradition requests were made possible by the change of perception of what constitutes a crime and what is not a crime. Notably also the p-CW politics promoted increase in extradition treaties and strengthening the existing ones, particularly in Africa. For instance, on 30 November 2002, the Federal Government of Nigeria (FGN) ratified the already existing extradition arrangement it has with the Republic of South Africa (RSA).

Both nations also ratified what they referred to as "Ratification and Enforcement Act of 2005" to guarantee both nations the obligation to extradite individuals and regime officials who have contravened the provisions of international humanitarian laws. In 2012, Federal Government of Nigeria strengthened her domestic legal framework on issues that concerns extradition. The government also established what is today known as the Centre Authority Unit (CAU) to coordinate extradition cases and provide mutual legal assistance on issues that concerns extradition in the country (UN Office on Drug and Crime, UNODC, 2016).

Under the Extradition Act (Modification) Order 2014, the government of Nigeria amended the Extradition Act of 1966. There was also the Issuance of the Extradition Act (Proceedings) Rules 2015 by the Chief Judge of the Federal High Court in Nigeria which permits the Court to ratify extradition processes on request. In 2014, the government of the United Kingdom of Great Britain, Northern Ireland and Federal Republic of Nigeria signed an agreement for the purpose of transferring suspects to face trial, and already convicted to serve punishment on request. This treaty came into force on 29 September, 2014. In 2016, the government of Nigeria and the United Arab Emirate (UAE) signed extradition agreement (UNODC, 2016; Oluka, Ativie & Okuguni, 2019). In 2003, South Africa acceded to the multilateral European Convention on Extradition of 1957 which made South Africa a party to the extradition agreement which have over 50 member states.

In recent years, South Africa established extradition agreements with some countries in Africa and beyond including Algeria, Egypt, Lesotho, Malawi, Nigeria, Namibia, Botswana, Swaziland, Australia, Canada, China, India, United Arab Emirate (UAE), United States (U.S), Argentina, Hong Kong, Mexico, Namibia, South Korea and Taiwan (Moolla, 2019). After the Malabo Protocol of 2014 was negotiated and adopted by A.U member countries, a number of African countries negotiated and signed extradition treaties between and within themselves in order to effectively implement extradition processes in the continent, although request must be made before extradition could be considered, and possibly made. This is not without challenges which have in one way or the other affected the achievement of extradition on request in a number of cases in the continent.

2. Challenges of Implementations of Extradition Laws in Africa in the Post-Cold War Period

There are several attempts by African leaders to undermine extradition requests made by the prosecutors of the ICC against their indicted fellow African leaders through granting of needless and unnecessary asylum; granting of presidential pardons to political associates and unnecessary delays occasioned by bureaucracy, among others. Issues concerning human rights emphasized in the Charter of the Universal Declaration on Human Rights (UDHR) and the Charter of A.U on Human Rights (AU-HRs) were occasionally disregarded by African leaders. This form of behaviour becomes a serious challenge to the functional implementation of extradition processes in Africa during the period in spite of the fact that ICC enjoyed inestimable support from the A.U at the earlier stage (Martin, 2012; Mills, 2020).

The allegation against the prosecutors of the ICC of targeting only African leaders and regime officials and some powerful individuals also constitutes a serious challenge to extradition processes in Africa. The ICC indictments and requests for extradition of regime leaders in Africa are conceived as ambience of biases by African leaders under Africa Union (A.U). As Ben Kioko, the Legal Counsel of the A.U Commission on behalf of the A.U Commission Review Conference of the Rome Statute of the ICC as

cited in Mills (2020) stated that the position of the A.U concerning the indictment of Omar al-Bashir of Sudan was an aberration, especially from a moral standard that was already established in the provisions of international extradition laws and other provisions of international law such as the UDHR of 1948. As Patryk (2019), the BBC News (2019) and Mill (2020) stated, "on 16 April 1999 and at the first Ministerial Conference on Human Rights in Africa, the Assembly of the Head of State and Government of the A.U passed what some analysts described as unwarranted resolution urging all African states to consider ratification of the Statute of Rome of the ICC". This has also caused serious challenges to extradition processes in Africa because it jeopardised the provisions of international laws on extradition of wanted individuals and regime officials who have contravened the provisions of international human rights.

Article 46A of the Malabo Protocol specifically provided that "no charges shall be commenced or continued before the Court against any serving A.U. Head of State or Government, or anybody acting or entitled to act in such a capacity, or other senior state officials based on their functions, during their tenure in office (Malabo Protocol on ACJHR, 2014). This is a clear indication that regimes officials and leaders in Africa under the Malabo Protocol, in disguise are shading their kinds from prosecution by the ICC. Whether the efforts to institute respect of human rights and other provisions of international humanitarian laws in Africa is targeted against African leaders or not, they are expected to respect the provisions of the Charter of the A.U. on Human Rights, domestic laws on human rights, and the UDHR because majority of African countries are parties to these provisions. One would also hope that the Court (ICC) should recognise that domestic trial of former African regime officials and leaders would have an impact in the respect for individual's rights and dignities as human beings, and much more to African than the international community.

V. Conclusion

Before the manifestation of the p-CWE which succeeds the CWE that was characterised by the ideological antagonisms raised by its protagonists-USA and USSR, there were few cases of extradition involving individuals and leaders in Africa. There were also few extradition arrangements negotiated in Africa by African countries. With the end of the Cold War in 1991, there was a tremendous change in the behaviours of states, especially in Africa. With the manifestation of the p-CWE, most of the atrocities committed by some African leaders such as Idi Amin Dada of Uganda, Omar Hassan Ahmad al-Bashir of Sudan, Hussein Habre of Chad Republic, among others, that were initially regarded as local in character and not treated as international crimes, are now treated as serious crimes against humanity. The p-CWE has however changed the notions of international legal morality. In addition, it has significantly changed the perception of crime for good in the absence of the ideological division experienced during period of the Cold War era.

VI. Recommendations

Base on the findings of this study, the following recommendations are made:

A. As the p-CWE contributed tremendously in enhancing the implementation of international extradition laws in Africa, it has also becomes imperative for the nations of Africa to maintain their bilateral as well as multilateral extradition arrangements negotiated in the past and present to sustain the achievements made in the p-CWE. This no doubt will encourage formal and legal right to hand over to the ICC those indicted and extradition requests made in Africa. Again, Africa will not serve as *safe haven* for fugitive criminals or those who have committed crimes against humanity during wars, or involvement in insurgencies and terrorist activities.

B. African leader should stop to grant needless and unwarranted asylum to regimes officials and individuals who have committed offences or crimes against humanity. Granting of needless and unwarranted presidential pardons to family members and political associates, and needless and unnecessary delays of extradition should be discouraged in Africa. If this is done, there would be limited crimes against the provisions of international humanitarian laws in Africa.

C. There is also the need for African countries to continue to have extradition agreements or treaties in order to check all forms of offences or crimes against the provisions of international humanitarian laws. If proliferation of extradition treaties within the territories of Africa continues without sabotage, there will be limited forms of crimes against humanities. In other words, the Malabo Protocol should not hinder extradition processes in Africa in spite of its coordinate jurisdiction with the provisions of the ICC.

D. Again, there is the need for state parties of the A.U to continue to cooperate with the UN Security Council and the ICC to dispense speedy justice on cases involving powerful individuals, government officials and leaders in Africa who

have breached the provisions of international humanitarian laws despite the establishment of ACJHR born under the Malabo Convention of June 2014 held in Equatorial Guinea by the representatives of the A.U which provided the ACJHR coordinate jurisdiction with the ICC Protocol to indict, issue warrant of arrest and prosecute those who have committed offences in Africa.

E. The prosecutors of the ICC alleged to have targeted only African leaders should disengaged from such activities and continue to perform their obligations in line with the provisions of the ICC Protocol. This will not only ameliorate or minimize suspicions that the prosecutors of the ICC are targeting African leaders but encourage A.U leaders to continue to cooperate with the prosecutors of the ICC. It will also promote respects for the provisions of the international extradition laws, particularly in Africa.

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